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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,769

05/02/2005

Federica Damiani

P33037

6760

20462

7590

09/02/2008

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EXAMINER

CHANG, CELIA C

ART UNIT

PAPER NUMBER

1625

NOTIFICATION DATE

DELIVERY MODE

09/02/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

US_cipkop@gsk.com

Office Action Summary	Application No. 10/511,769	Applicant(s) DAMIANI ET AL.	
	Examiner Celia Chang	Art Unit 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 19 and 22 is/are pending in the application.
 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 and 19 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/9/08</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Amendment and response filed by applicants dated Jun 9, 2008 have been entered and considered carefully.

Claims 15-18, 20-21 have been canceled. Claims 1-14, 19 and newly added 22 are pending.

Claim 22 is drawn to a method of using multiple active ingredients for treating depression. Method of treating disorder using a single active ingredient and the method of treating disorder using multiple active ingredients are patentably independent and distinct inventions. The process of using a single active ingredient depends on the dosage and efficacy of the single ingredient. The process of using multiple active ingredient not only depends on what the ingredients are, but also the quantitative relationship, their activity/interaction, and route of administration, i.e. co-administered, sequential etc.. Therefore, the search for each category is not co-extensive and separate search and examination must be conducted.

The multiple active ingredient method was not presented in the original claims. Therefore, an election based on original presentation is hereby made to prosecute claims 1-14 and 19. Claim 22 is withdrawn from consideration per 37 CFR 1.142(b).

2. The objection and rejection of claims 15-18 under 37 CFR 1.75 or 35 USC 112 first paragraph are dropped in view of the cancellation of the claims.

3. The provisional rejection of claims 1-11 and 19 under the judicially created doctrine of obviousness type double patenting is dropped in view of the presentation by applicants that the three dimensional comparison between the core of the instant claims and the secondary reference WO 03/057220 would not be considered being analogous by one having ordinary skill in the chemical art. Therefore, one having ordinary skill would not modify a compound of the instant claims using the properties of the different heterocyclic core compounds of WO 03/057220. Therefore, this obviousness type double patenting is dropped.

Art Unit: 1625

4. This application is in condition for allowance except for the formal matter of the cancellation of the non-elected claim 22.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

5. Claims 1-14 and 19 are allowable upon cancellation of claim 22.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celia Chang, Ph. D. whose telephone number is 571-272-0679. The examiner can normally be reached on Monday through Thursday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet L. Andres, Ph. D., can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OACS/Chang
Aug. 26, 2008

/Celia Chang/
Primary Examiner
Art Unit 1625